

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Developing a Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109
	)	
Universal Service Reform—Mobility Fund	)	WT Docket No. 10-208

**INTERCARRIER COMPENSATION REPLY COMMENTS OF FRONTIER  
COMMUNICATIONS CORPORATION**

Frontier Communications Corporation (“Frontier”) hereby submits the following reply comments in response to the Federal Communications Commission’s (“Commission” or “FCC”) request for comment on its *Further Notice of Proposed Rulemaking* addressing intercarrier compensation (“ICC”) reforms.<sup>1</sup>

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<sup>1</sup> *In re*: Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform—Mobility Fund, WC Dkt. Nos. 10-90, 07-135, 05-337, 03-109; GN Dkt. No. 09-51; CC Dkt. Nos. 01-92, 96-45, WT Dkt. No. 10-208, *Report and Order and Further Notice of Proposed Rulemaking*, FCC 11-161 (rel. Nov. 18, 2011) (“*Report and Order*” or “*FNPRM*” respectively). Frontier also submitted comments in the above-

The record in this proceeding demonstrates that reforms for intercarrier compensation elements not addressed in the *Report and Order*, including originating access;<sup>2</sup> transport and termination;<sup>3</sup> and transit,<sup>4</sup> are premature. The Commission should reject approaches that would threaten network sustainability and instead proceed through a reasoned process that takes into account the effects of existing reforms and carefully examines any proposed reforms in that context. The entities arguing for immediate access reductions generally benefit from the value of Frontier's network but appear to lack understanding of the costs associated with sustaining the network. Several of these entities seek to derive multiple benefits from using Frontier's network without adequately compensating Frontier.

**I. Uncertainty Over the Outcome of Terminating Access Reforms Counsels Against a Rush to Implement Further ICC Reforms**

As Frontier stated in its comments, consideration of additional changes to ICC at this time, prior to full implementation of the existing ICC changes, is premature. “[T]he majority of the changes that affect terminating access, including the transition to bill and keep as the end-state methodology, have not yet begun. As a result, the Commission cannot properly evaluate the impacts of the *Report and Order*’s reforms on carrier revenues, consumer benefits, and the transition to IP networks; this evaluation is a necessary precursor to any future ICC reforms.”<sup>5</sup> Many commenters support this position. ITTA accurately states that “the Commission should defer originating access reform for a sufficient period of time to take into account the lessons

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captioned dockets in response to the *FNPRM* addressing the Commission’s continued reform proposals to the Universal Service Fund (“USF”).

<sup>2</sup> *FNPRM* at ¶¶ 1298-1305.

<sup>3</sup> *Id.* at ¶¶ 1306-10.

<sup>4</sup> *Id.* at ¶¶ 1311-14.

<sup>5</sup> Comments of Frontier Communications, WC Dkt. Nos. 10-90 *et al.*, at 2 (filed Feb. 24, 2012) (“Frontier Comments”).

learned from its implementation of terminating access reform.”<sup>6</sup> ITTA correctly reasons that “deferring originating access reform will allow the Commission and industry to adjust to the regulatory and business environment that will result from terminating access reform and allow the Commission to make ‘corrections’ to address any changes in the environment or unintended consequences of its previous considerable reform efforts.”<sup>7</sup> Similarly, Windstream notes that “[a]djusting to the revised business model resulting from the reduction and elimination of terminating switched access charges—a transition that just now is beginning—will take time for both carriers and customers, and any unintended consequences cannot be known until the reform process runs its course.”<sup>8</sup> Numerous other commenters also support pausing to assess the effects of the current transition before proceeding with further changes to the ICC regime.<sup>9</sup>

At this point, there are simply too many unknowns under the terminating access transition to proceed on an informed basis. GVNW Consulting, for example, questions the overall stability of rural services in an era of reduced terminating access.<sup>10</sup> NTCA *et al.* has similar concerns, stating that “[u]ntil the Commission affirmatively finds that the additional costs of switching traffic will be recovered under a bill-and-keep regime and that any recovery of these costs (in whole or in part) from end users will not frustrate universal service . . . it should not subject these charges to any transition under such a regime.”<sup>11</sup> The Commission’s terminating access reform shifts millions of dollars away from ILECs, which have historically depended upon such revenue to

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<sup>6</sup> Comments of ITTA—The Independent Telephone and Telecommunications Alliance, WC Dkt. Nos. 10-90 *et al.*, at 2 (filed Feb. 24, 2012).

<sup>7</sup> *Id.*

<sup>8</sup> Comments of Windstream Communications, Inc., WC Dkt. Nos. 10-90 *et al.*, at 3 (filed Feb. 24, 2012) (“Windstream Comments”).

<sup>9</sup> See e.g., Comments of CenturyLink, Inc., WC Dkt. Nos. 10-90 *et al.*, at 5 (filed Feb. 24, 2012) (“CenturyLink Comments”).

<sup>10</sup> Comments of GVNW Consulting, WC Dkt. Nos. 10-90 *et al.*, at 6 (filed Feb. 24, 2012).

<sup>11</sup> Comments of NTCA *et al.*, WC Dkt. Nos. 10-90 *et al.*, at 6 (filed Feb. 24, 2012) (“NTCA Comments”).

maintain their networks. At the same time, the recovery mechanism does not allow for complete recovery of lost revenue. The Commission's consideration of consumer interest and universal service dictates that it must assess the effects of such potentially destabilizing changes before completing further reform that may threaten network sustainability.

Another important, yet often overlooked, reason that delaying further ICC reforms is prudent is that carriers are currently utilizing all of their resources to implement the *Order's* terminating access reductions and other Universal Service Fund reforms. As CenturyLink points out, "[t]he ICC reform framework imposed by the USF/ICC Transformation Order has already set in motion a series of events and milestones which will require considerable administrative effort by carriers and regulatory agencies to implement given the massive change envisioned."<sup>12</sup> Frontier supports CenturyLink's statement, which mirrors Frontier's own extensive internal administrative effort involving many parts of the company, including marketing, finance, engineering, technical support, customer service, and regulatory compliance, to implement the reforms enacted to date. Further, the implementation is not a one-time effort; many of the reforms are progressive in nature, requiring ongoing implementation work. Carriers would face considerable burdens in finding the appropriate resources to devote to further ICC reform at this time.

The uncertainty surrounding the states' roles in the remaining ICC transitions also counsels against a rush for further reform. In the *FNPRM* the FCC seeks "the input of the states on how to transition to bill-and-keep for originating access charges." The California Public Utilities Commission ("CPUC") notes the uncertainty of ICC reform generally created by the fact that, "the FCC's reading of the relevant statutes may be challenged in federal court."<sup>13</sup> Beyond the

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<sup>12</sup> CenturyLink Comments at 6.

<sup>13</sup> Comments of California Public Utilities Commission, WC Dkt. Nos. 10-90 *et al.*, at 4 (filed Feb. 24, 2012) (CPUC Comments).

legal uncertainty of the Commission's terminating access reforms, numerous states have submitted comments into the record that demonstrate different understandings of their roles in continued ICC reform. For example, the Indiana Utility Regulatory Commission believes that "it has jurisdiction over intrastate access charges" and the "proposed changes to interstate access rates would affect the Indiana Commission's long standing policies and rules that generally require carriers to mirror (or concur in or adopt) interstate access rates in their intrastate rate structure,"<sup>14</sup> possibly in violation of state statute. The CPUC believes that "the remaining rate elements to be transitioned to bill-and keep are properly intrastate rates traditionally under the jurisdiction of the states, and the states should be allowed to determine how and on what schedule the remaining intrastate rate elements are transitioned to the FCC's desired end-state."<sup>15</sup> The confusion is such that even different states are asking for more time, with the Regulatory Commission of Alaska ("RCA") noting that "absent a clear and complete picture of the rules governing reform and the support to be provided, the RCA cannot accurately assess the impacts on telecommunications in Alaska."<sup>16</sup> Given the significant confusion amongst states of their current and prospective roles in ICC reform, pausing to evaluate is appropriate.

## **II. A Stable Transition is Essential for Network Stability and Investment in Future Networks**

Pausing before further ICC reforms also makes good fiscal sense. Any further ICC reform would add considerable strain to an already tightly-stretched Connect America Fund (CAF) budget due to the recovery necessary to offset those substantial revenue losses. The Commission should reject commenters and arguments that call for drastic cuts to ILEC revenues—either in the form of eliminating recovery or by sunseting the ARC, SLC or CAF ICC.

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<sup>14</sup>Comments of Indiana Utility Regulatory Commission, WC Dkt. Nos. 10-90 *et al.*, at 6 (filed Feb. 24, 2012).

<sup>15</sup> CPUC Comments at 4.

<sup>16</sup> Comments of Regulatory Commission of Alaska, WC Dkt. Nos. 10-90 *et al.*, at 12 (filed Feb. 24, 2012).

When the FCC finally embarks on a process to reform the remaining ICC elements (which it should do after a pause and thorough examination of terminating access reform) it must provide for a reasonable transition period for those losing revenues, including a recovery mechanism for ILECs. To be clear, the Commission would be correct in limiting recovery to those revenues actually lost, i.e., those ILEC revenues currently derived from IXCs not affiliated with the ILEC. ILEC recovery of these revenues is important because, as Windstream correctly states, “incumbent LECs uniquely are required to provide equal access, [and therefore] customers of Windstream and other incumbent LECs often have as their presubscribed long-distance carrier an unaffiliated IXC, such as AT&T or Sprint . . . .”<sup>17</sup>

Indeed, Windstream’s point about the “unique” requirements ILECs face supports the need for ILEC-specific transition and recovery, despite the views of some commenters. ILECs have numerous regulatory burdens, such as Carrier of Last Resort (COLR) obligations, equal access obligations, and pricing restrictions that none of its competitors face. Time Warner Cable (“TWC”) for example, a Frontier competitor in several markets, “urges the Commission not to increase funding available through its newly established recovery mechanism in order to offset reductions in originating access rates.” TWC further asserts that “the notion that every reduction in intercarrier compensation rates must be offset with some measure of explicit support goes against the core goals of reform by guaranteeing current revenue flows and dis-incentivizing efficient modifications in networks and operations.”<sup>18</sup> TWC’s statements are a thinly-veiled effort to distort the competitive marketplace in its favor. ILECs need the opportunity to recover lost funds because of 1) the obligations to provide universal service to the most remote regions; and 2) the restrictions in place on service pricing. Further, TWC is, through its use of the term

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<sup>17</sup> Windstream Comments at 5.

<sup>18</sup> Comments of Time Warner Cable, WC Dkt. Nos. 10-90 *et al.*, at 19 (filed Feb. 24, 2012) (“TWC Comments”).

“explicit support,” is suggesting that end user revenues as well as potential funding from the CAF ICC fund are inappropriate forms of recovery. Under TWC’s rationale, ILECs should be prohibited from recovering lost revenues from their end users, which is antithetical to the Commission’s reform goal of removing cross-subsidies in favor of shifting the cost to end users.<sup>19</sup> TWC has made full use of its pricing flexibility,<sup>20</sup> yet TWC believes ILECs should not be able to recover their costs despite existing and additional new regulatory obligations. The Commission should reject this self-serving argument.

Similarly, the Commission should reject arguments calling for the sunset of the ARC, SLC and CAF ICC recovery. NCTA, which represents Frontier’s unregulated competitors, is among those calling for the elimination of many ILEC revenue streams, including ARC and CAF ICC support. NCTA asserts that “price cap incumbent LECs should no longer be able to assess ARCs once they receive CAF Phase II support,” and that “a price cap incumbent LEC that is receiving the full amount of explicit support necessary to serve all of its eligible locations within a state should not be receiving additional CAF ICC support.”<sup>21</sup> NCTA is wrong. CAF Phase II is designed to only support broadband to high cost census blocks unserved by unsubsidized competitors. While those specific areas may be supported, this still leaves ILECs saddled with numerous regulatory responsibilities in the majority of their territories without any funding. As Frontier has previously stated, ICC revenues, ARC charges and CAF Phase II support serve “very different non-duplicative purposes and receipt of one type of funding should not affect

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<sup>19</sup> *Report and Order* at ¶ 34 (“Under bill-and-keep, carriers look first to their subscribers to cover the costs of the network, then to explicit universal service support where necessary.”).

<sup>20</sup> TWC’s financial filings demonstrate their price flexibility by stating its concern “that the number of homes that replace their wireline telephone service with wireless service or ‘over-the-top’ phone service and their video service with Internet-delivered and/or over-air content, which would negatively impact TWC’s ability to attract customers, increase rates and maintain or increase revenues.” Time Warner Cable, Annual Report (Form 10-K) at 21 (Feb. 17, 2012).

<sup>21</sup> Comments of NCTA, WC Dkt. Nos. 10-90 *et al.*, at 9 (filed Feb. 24, 2012). *See also* Comments of Ad Hoc Telecommunications Users Committee, WC Dkt. Nos. 10-90 *et al.*, at 13-24 (filed Feb. 24, 2012).

receipt of the other, particularly when both are necessary to achieve the Commission's broadband goals."<sup>22</sup> So long as ILECs remain regulated across their entire service areas these sources of funding should not be eliminated.<sup>23</sup>

The Commission should also dismiss calls for the immediate implementation of bill and keep methodologies without adequate recoveries. The VON Coalition states that "the Commission should immediately eliminate originating access charges and implement a bill-and-keep framework," under the rationale that "any regulatory imposed payment mechanism that rewards the inefficiency of TDM networks will simply forestall the ultimate transition to IP networks."<sup>24</sup> Google has a similar viewpoint that "to maximize incentives for local carriers to modernize their networks and create a forward looking system consistent with future communications needs, the FCC should not automatically create an entitlement for existing incumbent carriers to recover revenue losses."<sup>25</sup> This logic is flawed. Frontier and other ILECs use ICC revenues in order to deploy broadband networks. While Frontier is transitioning its network away from the PSTN to IP networks (the networks that the VON Coalition's members and Google run over), it cannot continue to do so without ICC revenue--the very revenues VON Coalition and Google propose to cut.

Providers such as the VON Coalition and Google view the ILEC network as a free service over which they can operate their businesses with no consideration as to the actual costs of deploying and maintaining broadband networks. Google and others call for additional IP-IP interconnection obligations beyond the good-faith negotiations that the *Report and Order*

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<sup>22</sup> Frontier Comments at 9.

<sup>23</sup> See also, Windstream Comments at 7 ("The Commission should not reduce or eliminate Subscriber Line Charges if it continues to regulate the price of voice services.").

<sup>24</sup> Comments of Voice on Net Coalition, WC Dkt. Nos. 10-90 *et al.*, at 3 (filed Feb. 24, 2012).

<sup>25</sup> Comments of Google, Inc., WC Dkt. Nos. 10-90 *et al.*, at 4 (filed Feb. 24, 2012).

discusses.<sup>26</sup> CenturyLink points out that its “existing local networks currently include approximately 3800 circuit switches. The transition of these networks to IP will require the company to replace these switches with packet-based switches, extend IP functionality into the network and reconfigure its local and toll trunking network.”<sup>27</sup> Frontier is in a similar position and agrees with CenturyLink that “network facilities . . . currently cannot support VoIP services without costly network upgrades, including the replacement of copper transmission facilities - with fiber and the installation of associated electronics needed to deploy broadband services.”<sup>28</sup> Such upgrades will cost hundreds of millions of dollars and, though they will happen organically, will not happen immediately, particularly when ILECs are faced with declining ICC revenues.

### **III. CONCLUSION**

For the foregoing reasons Frontier respectfully requests the Commission to refrain from considering or applying ICC reforms until the reforms currently underway are evaluated and understood. The Commission should also take account of the network investments necessary to achieve the Commission’s IP-network goals and avoid undermining them by removing the revenue streams that support such networks.

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<sup>26</sup> *Report and Order* at ¶ 1353.

<sup>27</sup> CenturyLink Comments at 38.

<sup>28</sup> *Id.* at 39.

Respectfully submitted,

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